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6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE DISTRICT OF ARIZONA  
9

10 United States of America,  
11 Plaintiff,  
12 vs.  
13 James B. Panther,  
14 Defendant.

NO. CR-19-00448-PHX-DLR-2

**MOTION TO MODIFY RELEASE  
CONDITIONS**

15  
16 Pursuant to 18 U.S.C. § 3142, Defendant respectfully requests that the Court modify  
17 the conditions of his release in order to allow travel throughout the United States for his  
18 new position as National Sales Manager of a salon product distributor.

19 In April 2019, Judge Michael S. Berg entered an Order in the Southern District of  
20 California granting Defendant release subject to certain conditions, including that he not  
21 travel outside Central and Southern California, except for travel to and from the District of  
22 Arizona for criminal proceedings. Docket No. 15. Defendant now moves to modify the  
23 travel condition to allow him to travel as required for his job.

24 Tracee Plowell, Assistant Chief of the Fraud Section for the United States  
25 Department of Justice, has authorized the undersigned to convey to the Court that she has  
26 no objection to the instant request. Similarly, Defendant's Pretrial Services Officer raises  
27 no objection and requests only that Defendant provide advance notice of each trip in the  
28 form of an itinerary.

1 In crafting release conditions, the Court must ensure that the conditions imposed are  
2 the “least restrictive” conditions that will “reasonably assure the appearance of the person  
3 as required and the safety of any other person and the community.” 18 U.S.C. § 3142(c)(B).  
4 Once a judge enacts the release conditions, under section 3142(g), a “district court has the  
5 authority to approve the modification of pretrial release conditions mindful of the factors  
6 set forth in 18 U.S.C. 3142(g).” *United States v. Smith*, No. 12-CR-1298-PHX-GMS, 2012  
7 U.S. Dist. LEXIS 124187 at \*7 (D. Ariz. Aug. 31, 2012). The four factors that a court must  
8 consider are:

9 (1) The nature and circumstances of the offense charged, including whether  
10 the offense is a crime of violence . . . ; (2) the weight of the evidence against  
11 the person; (3) the history and characteristics of the person; and (4) the nature  
and seriousness of the danger to any person or the community that would be  
posed by the person’s release.”

12 18 U.S.C. § 3142(g).

13 The weight afforded to each of these factors is within the Court’s discretion, but the  
14 Court must analyze the factors with the ultimate goal of crafting the least restrictive  
15 conditions necessary. *Smith*, 2012 U.S. Dist. LEXIS 124187 at \*8 (D. Ariz. Aug. 31, 2012).

16 Based on the factors of § 1342(g), Defendant’s appearance at court proceedings  
17 could be reasonably assured through less stringent travel restrictions than those imposed  
18 by Judge Berg. His alleged offense was non-violent and he poses no danger to anyone. And  
19 in examining the “the person’s character, physical and mental condition, family ties,  
20 employment, financial resources, length of residence in the community, [and] community  
21 ties” as required by § 1342(g)(3), the Court should note that Defendant has close ties with  
22 his family and his community. Defendant has lived in the San Diego area nearly his entire  
23 life, where he and his wife now raise their two young children.

24 In order to continue providing financially for himself and his family, Defendant  
25 respectfully requests that the Court modify his current release conditions to allow work-  
26 related travel throughout the United States.

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1 RESPECTFULLY SUBMITTED this 1st day of November, 2019.

2 BALLARD SPAHR LLP

3  
4 By: s/ Mark Kokanovich  
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8  
9 **CERTIFICATE OF SERVICE**

10  
11 I certify that on the 1st day November, 2019, I electronically transmitted the  
12 foregoing document to the U.S. District Court for the District of Arizona Clerk's Office  
13 using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all  
14 CM/ECF registrants.

15  
16 s/ Sarah Gennett

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